the United States and is denying your Petitioner the equal protection of the laws.

A statutory penalty cannot be inflicted upon one group of stockholders and not upon another group of the same class; it is discrimination and offends the equal protection clause of the XIV Amendment: Atchison, Tokepa, etc. Railroad v. Matthews, *supra;* Bayside Fish Flour Co. v. Gentry, *supra.*

Wherefore, it is respectfully submitted that the petition for certiorari should be granted.

ALEXANDER J. BARRON,
GEORGE F. TAYLOR,
Counsel for Petitioner.

V.

Appendix.

PENNSYLVANIA STATUTES.

Act of 1919, P. L. 1032. Authorizing banking companies, incorporated and organized under the laws of the Commonwealth and having capital stock at least equal to the capital stock which trust companies are required by law to have, to act in any fiduciary capacity in which trust companies organized under the laws of the Commonwealth are empowered to act, and prescribing the method of acquiring such rights.

Section 1. Be it enacted, etc., That corporations organized or hereafter to be organized under the laws of the Commonwealth for carrying on the business of banking, and having capital stock at least equal to the capital stock which trust companies are required by law to have, may be granted, by special permit, the right and power to act as trustees, executor, administrator, registrar of stocks and bonds, guardian of estates, as-

signee, receiver, committee of estates of lunatics or habitual drunkards, or in any other fiduciary capacity in which trust companies organized under the laws of this Commonwealth have authority and are permitted to act.

Section 2. Such rights, powers, and privileges shall be exercised by State banking companies for and during the term of the charter of said banking companies and any renewal and extension thereof.

Section 3. Banking companies exercising any or all of the rights, powers, and privileges enumerated in section one of this act or included therein by reference to the laws regulating trust companies, shall keep all trust funds and trust investments separate and apart from the general assets of the bank, and shall keep a separate set of books and records, showing in proper detail all transactions engaged in under authority of this act. Such books and records shall be open to inspection, examination, and supervision by the State Bank Department, to the same extent as the other books, records, and assets of the banking company are by laws, existing or which may be hereafter enacted.

Section 4. Banking corporations exercising the rights and powers conferred by this act, shall not be required to execute the bond usually required of individuals, but shall have the power to execute any bond required by law when acting in any fiduciary capacity.

Section 5. In any case in which the laws of this Commonwealth require that a corporation acting in any fiduciary capacity shall take an oath or make an affidavit, the president, vice-president, cashier, or trust officer of such banking corporation may take the necessary oath or execute the necessary affidavit.

Section 6. Any banking company acquiring the additional rights and powers authorized by this act,

shall include in, or add to, its corporate name the words "Trust Company."

Section 7. Any banking company, incorporated under the laws of this Commonwealth, desiring to acquire and exercise the rights and powers authorized by this act, shall, by its board of directors, adopt a resolution, setting forth such desire, authorize its president and secretary to make application therefor under its corporate seal, and record such resolution on its minute book.

Section 8. The proper officers of the banking company shall file in the office of the Secretary of the Commonwealth a certificate in substantially the form following:

To His Excellency the Governor of the
Commonwealth of Pennsylvania, and
the Commissioner of Banking:

This is to certify, that the undersigned banking company, incorporated and organized under the laws of the Commonwealth, desires to obtain and exercise the rights and powers, under an act authorizing the grant by special permit to banking companies organized under the laws of the Commonwealth, to act in any fiduciary capacity in which trust companies organized under the laws of the Commonwealth are by such laws empowered to act; and, as provided therein, hereby certifies as follows:

One. Name of banking corporation.....

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Two. Date of incorporation or recharter.....

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Three. Location or place of business.....

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Four. Name, containing words "Trust Company," proposed to be used.....

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Five. Amount of capital stock paid in.....

Six. Copy of resolution of Board of Directors and date of adoption.....

.....

Seven. This certificate is made to enable the State banking company to obtain the right to act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics or habitual drunkards, or in any other fiduciary capacity in which trust companies organized under the laws of this Commonwealth have authority and are permitted under such laws to act.

Section 9. This certificate shall be acknowledged before a judge or notary public, which certificate, with acknowledgment certified and authenticated by the seal of such court or notary public, shall be transmitted, after approval by the Governor and Secretary of the Commonwealth, to the Commissioner of Banking to be filed, recorded, and preserved in his office.

Copies of such certificate, duly certified by the Commissioner of Banking and authenticated by the seal of office, shall be conclusive evidence in all courts of the Commonwealth of the right of said banking company to exercise the rights and privileges authorized by this act, and of every other matter or thing which could be proved by the production of the original certificate.

Section 10. The Commissioner of Banking, upon the receipt of the said certificate, if he approve the same, shall certify a copy of such certificate to the Governor, who shall, upon receiving the same, cause letters patent, under the great seal of the Commonwealth, to be issued to the said banking company under the corporate name as set forth in the certificate.

Section 11. Before application shall be made under the provisions of this act, the banking company shall cause a notice of such intended application to be adver-

tised in two newspapers printed in the county in which such corporate body is located, at least once a week, for three weeks, before such application shall be made, and the notice of such application shall specify the name and style, the location, the amount of capital and the purpose of the application. Proofs of such publication shall accompany the application.

Section 12. Every banking corporation acquiring the additional rights and privileges of this act, shall cause the letters patent to be record in the recorder's office of the proper county, shall adopt a corporate seal, and have succession by the name designated in its certificate for the term of twenty years from the date of its original incorporation or recharter. By its changed corporate name it may make contracts, sue, and be sued, complain, prosecute, and defend, in any court of law and equity or before any magistrate, as fully as natural persons, and shall have and possess all corporate powers under its original corporation or recharter, together with the rights and powers authorized by this act.

Section 13. All acts or parts of act inconsistent with this act be, and the same are hereby, repealed.

Approved—The 17th day of July, A. D. 1919.

WM. C. SPROUL.

Act of 1923, P. L. 173. Extending and enlarging the powers and rights of trust companies and banks organized and incorporated under the laws of the Commonwealth of Pennsylvania.

Section 1. Be it enacted, etc., That every trust company and bank organized and incorporated under the laws of the Commonwealth of Pennsylvania is hereby authorized and empowered to discount, buy, sell, negotiate, and assign promissory notes, drafts, bills of ex-

change, trade and bank acceptances, bonds, and other evidences of debt, and to receive and retain in advance interest on loans and discounts made.

Section 2. All acts or parts of acts inconsistent with this act be, and the same are hereby, repealed.

Approved—The 9th day of May, A. D. 1923.

GIFFORD PINCHOT.